

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

NEXTEL PARTNERS OPERATING CORP.)	
and)	
NPCR, INC., d/b/a NEXTEL PARTNERS)	
)	Docket No. 03-0487
Application for Certificates of Service Authority)	
To Operate as Providers of CMRS Telecommuni-)	
cations Services in the State of Illinois.)	

**NEXTEL PARTNERS OPERATING CORP. AND NPCR, INC. a/b/a NEXTEL
PARTNERS' RESPONSE TO INTERVENORS' MOTION TO COMPEL
COMPLIANCE WITH DATA REQUEST PROPOUNDED TO APPLICANTS**

Nextel Partners Operating Corp. ("NPOC") and NPCR, Inc. d/b/a Nextel Partners ("NPCR") hereby reply to Intervenor's Motion to Compel Compliance with Data Request Propounded to Applicants as follows:

1. Viola Home Telephone Company, et al. ("Viola, et al.") complain in their motion to compel that the Intervenor has not answered their discovery requests.
2. As counsel for NPOC/NPCR indicated to counsel for Viola, et al. by telephone, NPOC/NPCR have not responded to Viola, et al.'s data requests because they are not parties to this case. Viola, et al.'s petition to intervene has been challenged by NPOC/NPCR and is still pending.
3. Viola, et al. cite no authority which requires a party to answer discovery by a non-party to a case.
4. Although Viola, et al. cite Commission Rule 200.200 (83 Ill. Admin. Code 200.200) for the proposition that a hearing examiner may permit a petitioner to

participate in a proceeding while its petition to intervene is pending, the Administrative Law Judge in this proceeding has not made such a decision to permit Viola, et al.'s participation in this docket.

5. As NPOC/NPCR discussed fully in NPOC's/NPCR's Response to Petition to Intervene and Motion to Dismiss of Intervenors which we filed previously, Viola, et al.'s petition to intervene should be denied because they have not established any legitimate interest in this docket. Viola, et al.'s only interest in this docket is to delay or prevent the designation of NPCR as an Eligible Telecommunications Carrier ("ETC") in ICC Docket No. 03-0312.

6. As NPOC/NPCR stated in NPOC's/NPCR's Reply to the Response of Commission Staff to Intervenors' Motion to Dismiss and orally to Viola, et al.'s counsel in a telephone conversation, NPOC/NPCR will produce the documents requested by Viola, et al. if and when Viola, et al. is granted intervenor status and signs a protective order.

CONCLUSION

WHEREFORE, for the above stated reasons NPOC and NPCR respectfully request that the Administrative Law Judge do the following:

- a. deny the request of Viola Home Telephone Company, et al. that the Administrative Law Judge enter an order compelling NPOC/NPCR to produce the documents in 2.01 of the Second Data Request of Viola Home Telephone Company, et al. by a date certain and to prepare a proposed Protective Order; and
- b. deny the Petition to Intervene of Viola Home Telephone Company, et al.

Respectfully Submitted,

NEXTEL PARTNERS OPERATING CORP.
NPCR, INC d/b/a NEXTEL PARTNERS

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